

# SOUTHERN ENVIRONMENTAL LAW CENTER

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September 22, 2020

## **Via U.S. Mail and Electronic Mail**

Tiffany McClurkin  
FOIA Coordinator  
U.S. Fish and Wildlife Service  
1875 Century Boulevard  
Atlanta, GA 30345  
*tiffany\_mcclurkin@fws.gov*  
*foiar4@fws.gov*

## **Re: FOIA Request – Records Concerning the Red Wolf Rule and Recovery Program**

Dear Ms. McClurkin:

Pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and 43 C.F.R. §§ 2.1-2.290, the Southern Environmental Law Center (“SELC”) respectfully requests copies of any and all records in the possession or control of the U.S. Fish and Wildlife Service (“FWS”) related to FWS’s red wolf management, as specifically detailed below. This request specifically excludes any records furnished in response to our previous December 5, 2017 (FWS-2018-00274) and February 19, 2019 (FWS-2019-00455) FOIA requests.<sup>1</sup> Because releasing these records is in the public interest, we request a fee waiver for costs associated with conducting this search.

This request includes:

- All records from January 7, 2020 through the date of the agency’s search for this request related to the trapping, collaring, or releasing of red wolves, coyotes, or red wolf-coyote hybrids in Northeastern North Carolina, including planned or completed releases of captive red wolves into Northeastern North Carolina.
- All records from January 7, 2020 through the date of the agency’s search for this request related to the sterilization of coyotes or red wolf-coyote hybrids in Northeastern North Carolina.
- All records from January 7, 2020 through the date of the agency’s search for this request concerning FWS’s efforts to revise the red wolf rule or develop any supporting analysis for the Proposed Replacement of the Regulations for the

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<sup>1</sup> This also excludes records furnished in response to litigation filed by SELC to resolve these prior FOIA requests, *Southern Env’tl. Law Ctr. v. U.S. Fish and Wildlife Serv.*, No. 2:19-cv-33, DE 19 Joint Stipulation of Dismissal and Settlement (E.D.N.C. Aug. 21, 2020).

Nonessential Experimental Population of Red Wolves in Northeastern North Carolina, 83 Fed. Reg. 30,382 (June 28, 2018) [“Proposed Rule”], or documents received in response to the Proposed Rule.

For the purposes of this request, the term “records” includes all written, printed, recorded, or electronic materials, communications, correspondence, memoranda, notations, copies, diagrams, charts, books, papers, maps, photographs, data, tables, spreadsheets, formulas, directives, observations, impressions, contracts, letters, messages, and mail in the possession, custody, or control of FWS. Please provide any electronic records in native file format.

In addition, we request access to each and every version of a record or document, whether it is a draft, has been electronically deleted, has attachments, bears annotations, etc. Please also include all responsive records generated up to the date of the agency’s search for records responsive to this request.

FOIA directs a responding agency to make a “determination” on any request within twenty working days of receipt. 5 U.S.C. § 552(a)(6)(A); 43 C.F.R. § 2.16(a). Pursuant to 43 C.F.R. § 2.25, in addition to making responsive documents available for request, should you determine that certain documents are responsive to this request and choose not to produce them on the basis of any claimed privilege or exemption from disclosure, we request that you produce a detailed list of those documents, including: the date of the document; the authors and recipients; the subject matter of the document; and the basis for the claimed privilege or exemption for disclosure. Further, where a document contains specific information that you claim is exempt or privileged, we request that you simply redact the information so claimed and produce the document in redacted form. The redacted information should be included in the list of privileged or exempt information just described.

The disclosure of the requested records would be in the public interest because it is likely to contribute significantly to public understanding of FWS’s activities in relation to its Red Wolf Recovery Program, which could have profound impacts on the only wild population of endangered red wolves in the world, and is not in the commercial interest of SELC. SELC is a 501(c)(3) non-profit organization working to protect the natural resources of the Southeast and, in particular, to gather, analyze, and disseminate public information about matters of conservation and environmental protection. As part of its work, SELC has been actively engaged in protecting the environment of the Southeast for three decades. SELC intends to disseminate the information gathered through this request to the general public through press releases, social media, public comment letters, and its website, [southernenvironment.org](http://southernenvironment.org), which is updated regularly.

We request that you waive any search and duplication fees and provide the requested records without charge, or at a reduced charge, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). A fee waiver is appropriate because SELC does not have a commercial interest that would be furthered by the requested disclosure. SELC is a 501(c)(3) non-profit organization that provides legal representation to other 501(c)(3) non-profits and public advocacy free of charge. Our intended use of the requested materials is to glean a greater understanding of FWS’s plans for the Red Wolf Recovery Program and to continue to disseminate information about federal conservation policy to the public through the many channels described above. All of the activities described

above have been, and will continue to be, provided to the public by SELC and our clients for no payment. Courts have recognized that Congress intended FOIA's fee waiver to be "liberally construed in favor of waivers for noncommercial requesters." *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1284 (9th Cir. 1987).

Should our request for reduced or waived fees be denied, we are prepared to bear the reasonable costs necessary to fulfill this request, although we request that you contact us before processing this request to discuss fees. We reserve our right to appeal a denial of our request for a fee waiver or reduction.

Thank you for your prompt attention to this matter. In the event you deny our request, we ask that you inform us of the grounds for denial and the specific administrative appeal rights that are available. If you have any questions regarding this request, please contact me at (919) 967-1450 or [erasheed@selcnc.org](mailto:erasheed@selcnc.org).

Sincerely,

A handwritten signature in cursive script that reads "Elizabeth Rasheed".

Elizabeth Rasheed  
Associate Attorney